

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 27

41

Filed: June 21, 2006

Board of Patent Appeals and Interferences
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
Tel: 571-272-9797
Fax: 571-273-0042

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge Richard E. Schafer)

Olympus Optical Co., LTD.,
Junior Party
(Patent 5,701,202
Named Inventor: Koichi Takahashi)

v.

Canon Kabushiki Kaisha,
Senior Party
(Application 08/959,285
Named Inventors: Shoici Yamazki and Takeshi Nishimura).

Patent Interference No. 105,341 (RES)
(Technology Center 2800)

Before: SCHAFER, MOORE and NAGUMO, Administrative Patent Judges.
SCHAFER, Administrative Patent Judge.

Judgment - Request for Adverse - Bd.R. 127(b)

Olympus has requested entry of adverse judgment with respect to the subject matter of the Count. Paper 26.

Accordingly, it is

ORDERED that judgment on priority as to the subject matter of Counts 1 and 2 (Paper 1 pp. 3-4), is awarded against the junior party, Olympus Optical Co., LTD. (Patent 5,701,202);

FURTHER ORDERED that junior party, Olympus Optical Co., LTD., is not entitled to a patent containing claims 4-20 and 28-33 (corresponding to Count 1) and claims 1-3 and 21-27 (corresponding to Count 2) of Patent 5,701,202;

FURTHER ORDERED that a copy of this judgment be made of record in the files of U.S. Patent 5,701,202 and Application 08/959,285;

FURTHER ORDERED that if there is any settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 41.205.

<u>/Richard E. Schafer/</u>)
RICHARD E. SCHAFER)
Administrative Patent Judge)
)
<u>/James T. Moore/</u>) BOARD OF PATENT
JAMES T. MOORE) APPEALS AND
Administrative Patent Judge) INTERFERENCES
)
<u>/Mark Nagumo/</u>)
MARK NAGUMO)
Administrative Patent Judge)

cc (e-mail):

Counsel for Canon Kabushiki Kaisha:

Anthony M. Zupcic, Esq.
FITZPATRICK, CELLA, HARPER &
SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Tel: 212-218-2100
Fax: 212-218-2200
E-mail: azupcic@fchs.com

Counsel for Olympus Corporation:

Jeffrey D. Karceski, Esq.
PILLSBURY WINTHROP SHAW
PITTMAN LLP
1650 Tysons Boulevard
McLean, Virginia 22102
Tel: 703-770-7900
Fax: 703-770-7901
E-mail:
jeffrey.karceski@pillsburylaw.com

Despertt, Sonja

From: Despertt, Sonja on behalf of Interference Trial Section
Sent: Wednesday, June 21, 2006 3:20 PM
To: 'azupcic@fchs.com'; 'jeffrey.karceski@pillsburylaw.com'
Subject: Interference 105343 (RES) Paper No. 27 - Judgment-Request for Adverse-Bd.R. 127(b)



105341.027.pdf